

## INSTITUTION COMPLIANCE PROGRAMS

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### OVERVIEW

Each financial institution is encouraged to establish a written compliance program. In addition to being a planned and organized effort to guide the institution's compliance efforts, the program represents an essential source document that will serve as a training and reference tool for all employees. The compliance program is essential to the efficient and successful operation of the institution, much as a business plan. A well planned and maintained compliance program will:

- Prevent or reduce regulatory violations
- Provide cost efficiencies
- Make good business sense

Compliance programs that are properly set up consume less time and effort to effectively administer in the long term.

Any compliance program should provide the institution's directors, management and employees with a blueprint that details:

- Commitment to comply with consumer regulations
- Commitment to comply with civil rights, fair lending, and community reinvestment laws and regulations
- Guidance on how to achieve the goal of ongoing compliance

Financial institutions are required by law to comply with consumer, fair lending and community reinvestment laws and regulations. Failure to do so can result in monetary penalties, consumer initiated litigation, and additional regulatory supervision. Additionally, the *lack* of a compliance program may mean increased operating costs to the institution when incorrect forms and disclosures are used, printed advertisements do not conform to regulations or additional agents (consultants) are required to remedy a compliance/CRA problem.

It is expected that no two compliance programs will be the same, and that certain differences will

**OVERVIEW  
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be dictated by numerous considerations, including:

- Institution's size and organizational structure
- Focus of the institution (for example: community bank versus wholesale bank)
- Types of products
- Location of the institution – its main office and branches
- Other influences, such as whether the institution is involved in interstate or international banking

An institution's compliance program should cover the institution's activities, as it relates to the operation and character of the institution. The degree to which the compliance program is formalized may not be as important as its effectiveness. This could be especially true for small institutions where the program may not be in writing but an effective monitoring system has been established that ensures overall compliance. However, during periods of expansion or turnover of staff, a written compliance program becomes more important as individuals with the particular knowledge or experience may no longer be with the institution or available for contact.

Institutions may prefer to develop a separate program for community reinvestment. This plan should establish goals and objectives and the means to accomplish the stated goals and objectives.

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**BOARD  
RESPONSIBILITY**

The board of directors/trustees is ultimately responsible for developing and administering a compliance program, maintaining a satisfactory compliance posture, and providing appropriate training to employees that enables them to carry out their compliance responsibilities. Adoption of policy statements on compliance is important to an effective compliance program. The policies will provide a framework for the institution's procedures and provide clear communication of the board's commitment and intent toward compliance.

In developing the organizational structure of the compliance program, the board must grant sufficient authority and independence to the individual(s) with compliance responsibilities.

The authority should include the ability to:

- Cross departmental lines
- Have access to all areas of the institution's operations
- Effect corrective action upon discovering deficiencies

**BOARD  
RESPONSIBILITY  
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It may be appropriate for the board to delegate certain tasks to committees, officers or departments; however, the ultimate responsibility of overall compliance with all regulatory laws and statutes resides with the board.

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**DESIGNATION  
OF  
COMPLIANCE  
OFFICER OR  
COMPLIANCE  
COMMITTEE**

Regardless of size, or other institution aspects, the first step the board of directors/trustees should take in providing for the administration of the compliance program is the designation of a compliance officer. A compliance committee, as an alternative to a full-time compliance officer, could be formed consisting of the compliance officer, representatives from various loan and operations departments, and member(s) of senior management or the board. Whatever organizational structure is chosen, it is important that the duties and responsibilities are clearly defined and include accessibility to both the board and senior management. The compliance officer or committee should report directly to the board or chief executive officer. It is important that the designated individual(s) be provided sufficient authority and independence to implement policies and institute corrective action.

In choosing the individual(s) responsible for compliance, knowledge of consumer credit regulations and fair lending laws and the overall operations of the institution is important. In larger institutions, the compliance officer may need to devote all of his or her time to compliance activities. In smaller institutions, the responsibilities of the compliance officer may be divided between various individuals by type of regulation, such as loan-related or deposit-related regulations. This arrangement is frequently seen in smaller institutions where staffing is limited and the institution's officers have many responsibilities. It is necessary that responsibilities be clearly defined when more than one individual is responsible for compliance.

Any individual(s) chosen for compliance responsibilities must be provided with ongoing training, sufficient time, and adequate resources to perform compliance responsibilities. Of principal concern to any institution and its management in meeting its compliance responsibilities, should be the level of technical knowledge that the individual(s) has to meet his or her compliance responsibilities. Responsibilities will vary from one institution to another based on size or other aspects; however, certain general areas of responsibility in all institutions will include:

- Reviewing policies and procedures for compliance
- Training all employees in consumer laws and regulations
- Coordinating consumer complaints

Therefore, it is important that compliance personnel have sufficient regulatory knowledge to address these general responsibilities in a manner to ensure the institution's overall compliance posture.

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**COMPLIANCE**

Compliance efforts require day-to-day commitment and should be a part of the institution's regular operations. At a minimum, compliance programs should include the following:

**PROGRAM  
COMPONENTS**

- Written Policies and Procedures

Compliance programs generally should be in a written format, and should be dynamic documents that are reviewed and updated as the compliance environment changes. Policies should be established with goals and objectives and appropriate procedures for meeting those goals and objectives. Generally the degree of detail or specificity of procedures will vary in accordance with the complexity of the issue or transactions addressed. Staff knowledge and experience should be considered when written policies and procedures are prepared so they provide institutional personnel with all the information needed to perform a normal transaction. This may include applicable regulation cites and definitions, sample forms with instructions, and, where appropriate, directions for routing, reviewing, retaining, and destroying transaction documents.

There are various sources which an institution can consult for guidance and direction in the development of compliance policies and procedures. These sources include national and state banking organizations, correspondent institutions, and other appropriate trade and service organizations. It is important to remember, when using policies or programs provided from an outside source, that modifications may be necessary to meet the specific needs or business strategies of a particular institution.

- Monitoring Procedures

Monitoring is not auditing, but rather a proactive approach to identifying problems before they are identified by an audit. An effective monitoring system should include:

- Periodic reviews of applicable departments or branches
- Periodic reviews of disclosures and calculations for various loan and deposit products
- Periodic reviews of document filing and retention procedures
- Periodic reviews of marketing literature and advertising
- Periodic reviews, if applicable, with various state usury and consumer compliance laws and regulations
- Periodic reviews of the internal compliance communication system that provides appropriate updates and revisions of the applicable laws and regulations to personnel

The monitoring system should be incorporated in the normal activities of every department so that it is readily accepted and used on an ongoing basis. An effective monitoring system should detect procedural or training weaknesses early and preclude any significant violations which may adversely impact the institution.

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COMPONENTS  
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- **Education of Appropriate Personnel**

Continued training of personnel ensures that they understand compliance issues which affect their respective jobs. The compliance officer should be responsible for compliance training. The majority of training can most likely be conducted in-house by the compliance officer; however, there may be occasions when external training programs or seminars are necessary to provide employees adequate training. The compliance officer should serve as an ongoing resource of information for employees both during and after training. A regular training schedule should be established. Also, once personnel have been trained on a particular subject, it may be beneficial to test employees on their knowledge to ensure they comprehend the subject matter and to monitor training effectiveness.
- **Establish Nondiscriminatory Lending Criteria**

Policies and procedures should be established to communicate a clear understanding of antidiscrimination laws and regulations. Loan officers, as well as other front line personnel regularly interacting with loan applicants, should be fully trained in all aspects of antidiscrimination laws and regulations. The institution's nondiscriminatory lending criteria should be stated in the written compliance program and the lending policy. It is particularly important that lending officers are aware of, strictly adhere to established criteria, and apply all standards consistently to all applicants. Also, these criteria will provide a standard by which the compliance officer may review the portfolio to determine that each applicant has been treated in a fair and equitable manner in compliance with fair lending laws and regulations.
- **Establish Loan Application Procedures**

Loan application procedures should be established so that all applicants are consistently treated equitably and fairly. Knowledge and understanding of the fair lending laws and regulations is a must, as well as staying informed about the various products and services offered by the institution. Once loan application procedures are established, they become the foundation for consistent and proper lending guidelines that support the institution in complying with applicable rules and regulations.
- **Review Forms**

Periodically, standardized forms should be reviewed to determine whether they meet the requirements of the regulations. If forms are outdated or require revision, changes should be made or new forms should be ordered expeditiously so as to minimize the use of incorrect forms. When forms are replaced or revised, applicable personnel should be advised of the changes or if applicable, that new forms are to be used. All supplies of obsolete forms should be properly removed and destroyed. The compliance officer should be aware if different forms are utilized by different branches. All forms should be reviewed by the compliance officer when institutions merge or branches are acquired so that obsolete forms are removed and proper forms are distributed. It is also recommended that new forms be reviewed by the institution's legal counsel and the compliance officer *prior* to being purchased or implemented.

**COMPLIANCE  
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COMPONENTS  
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The FDIC encourages the use of model forms and/or model languages that are contained in several of the regulations that require specific disclosures. These include: Regulation Z (Truth in Lending), Regulation DD (Truth in Savings), Regulation E (Electronic Fund Transfers), Regulation B (Equal Credit Opportunity), Part 339 (Loans in Areas Having Special Flood Hazards), and the Fair Credit Reporting Act. Refer to the specific regulation for these model forms and/or language.

- Establish an Audit Program

An audit program differs from monitoring. An audit program is less frequent, more formal, and more comprehensive than monitoring. (Monitoring should be done on a daily basis, and does not usually include the preparation of a written report of findings. Also, monitoring is almost always the responsibility of in-house personnel.) The board should determine the scope of the audit, and the frequency with which audits are conducted. In addition to the scope, specific regulations and departments to be reviewed should be identified, as well as regulations or departments specifically excluded from the audit.

The audit program established should be appropriate for the institution, taking into consideration such issues as:

- Expertise and experience of various institution personnel
- Personnel solely dedicated to the compliance function
- Volume of transactions
- Complexity of products offered
- Number and type of consumer complaints received
- Number and type of branches
- Acquisition or opening of additional branch
- Size of the institution
- Organizational structure of the institution
- Degree which policies and procedures are defined and detailed in writing

The audit may be a once a year occurrence, or may be ongoing where all regulations are reviewed at least once annually. The audit function may be performed "in-house" or may be contracted to an outside firm or individual, such as a consultant or accountant. Regardless of whether audits are conducted by institution personnel or by outside contractors, the auditors should report their findings to the board or a committee of the board.

A written audit report should be prepared for each review that includes:

**COMPLIANCE  
PROGRAM  
COMPONENTS  
(cont'd)**

- Scope of the audit
- Number of transactions sampled by category of loan or product type
- Deficiencies identified
- Corrective actions
- Branches reviewed

Workpapers of the audit should be prepared, retained, and available for review upon request by the examination team. If the audit is performed by a contractor, workpapers should be available within a reasonable time period.

- Establish Procedures to Handle Consumer Complaints

The institution should be prepared to handle consumer complaints expeditiously and in compliance with the various applicable consumer laws and regulations. Complaints may be indicative of a weakness in a particular function or department that should be addressed responsibly. Individuals or departments responsible for handling consumer complaints should be designated. All personnel should be aware of this information in the event referrals are appropriate.

- Periodic Reviews of Consumer Lending Procedures for Compliance with Institution Policy

In addition to reviewing for compliance with regulation requirements, there should also be periodic reviews of actual consumer lending procedures for compliance with stated institution policy. This review is critical and should occur especially after regulations change or when new or additional branch locations are opened or acquired. The frequency and volume of turnover with personnel should also be factored into the schedule for review of practices with policies.

In conclusion, all institutions are encouraged to manage their compliance programs proactively to ensure a strong compliance/CRA posture.

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